

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04 10463 EFH

KHAY LE,)
 Plaintiff)
)
 v.)
)
FAIRHAVEN FISHING)
CORP.,)
 Defendant)

DEFENDANT, FAIRHAVEN FISHING CORP.'S
ANSWER TO PLAINTIFF'S COMPLAINT

FIRST DEFENSE

By way of affirmative defense the defendant states that the plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The defendant responds to the allegations contained in the plaintiff's Complaint paragraph by paragraph as follows.

1. The defendant neither admits nor denies the allegations contained in paragraph 1 of the plaintiff's complaint because it has no personal knowledge of same.
2. The defendant admits the allegations contained in paragraph 2 of the plaintiff's complaint.

COUNT I

3. The defendant admits the allegations contained in paragraph 3 of the plaintiff's complaint.

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4. The defendant neither admits nor denies the allegations contained in paragraph 4 of the plaintiff's complaint because it has no personal knowledge of same.
5. The defendant denies the allegations contained in paragraph 5 of the plaintiff's complaint.
6. The defendant denies the allegations contained in paragraph 6 of the plaintiff's complaint.
7. The defendant denies the allegations contained in paragraph 7 of the plaintiff's complaint.
8. The defendant denies the allegations contained in paragraph 8 of the plaintiff's complaint.

COUNT II

1. The defendant repeats and incorporates by reference responses to Count I, paragraphs 1 through 8.
2. The defendant denies the allegations contained in paragraph 2 of Count II of the plaintiff's complaint.
3. The defendant denies the allegations contained in paragraph 3 of Count II of the plaintiff's complaint.
4. The defendant denies the allegations contained in paragraph 4 of Count II of the plaintiff's complaint.

COUNT III

1. The defendant repeats and incorporates by reference responses to Counts I and II.
2. The defendant denies the allegations contained in paragraph 2 of Count III of the plaintiff's complaint.

THIRD DEFENSE

By way of affirmative defense, the defendant says that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct

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the defendant was not and is not legally responsible.

FOURTH DEFENSE

By way of affirmative defense, the defendant says that if the plaintiff was injured as alleged, which the defendant denies, those injuries were the result of an act of God for which the defendant is not legally responsible.

FIFTH DEFENSE

By way of affirmative defense, the defendant says that if the defendant was negligent or its vessel unseaworthy, which it denies, then the plaintiff's injuries, if any, were contributed to by the plaintiff's own negligence to such a degree that any recovery must be reduced pro rata.

SIXTH DEFENSE

By way of affirmative defense, the defendant says that if it is found liable to the plaintiff for any of his alleged damages, the amount of such liability is limited pursuant to the provisions of the Limitation of Liability Act, 46 U.S.C.A. §§181, et. seq.

SEVENTH DEFENSE

By way of affirmative defense, the defendant states that if the injury alleged was sustained, it did not occur while the plaintiff was in the service of the vessel.

EIGHTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff's action is barred by the application of the statute of limitations.

NINTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff's action has been brought in the wrong venue.